

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAVID MCNEES,

Plaintiff,

v.

GREGORY TORREY, et al.,

Defendants.

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Case No. 1:19-cv-121

HON. JANET T. NEFF

**ORDER**

This is a prisoner civil rights action. Defendants Torrey, Quigley, and VanWyck filed a Motion for Partial Summary Judgment, for an Evidentiary Hearing, and to Stay Non-Exhaustion Discovery (ECF No. 67). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation, and Order on March 4, 2021 (ECF No. 74), denying as moot the motion to stay non-exhaustion discovery, and recommending that this Court deny the motion for an evidentiary hearing and grant in part and deny in part the motion for partial summary judgment. Specifically, grant the motion for partial summary judgment with regard to the claim against Defendant Quigley and dismiss that claim without prejudice; and deny the motion as to the claims against Defendants Torrey and VanWyck. The Report and Recommendation was duly served on the parties. No objections have been filed. *See* 28 U.S.C. § 636(b)(1). Accordingly:

**IT IS HEREBY ORDERED** that the Report and Recommendation (ECF No. 74) is APPROVED and ADOPTED as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Motion for an evidentiary hearing (ECF No. 67) is DENIED.

**IT IS FURTHER ORDERED** that the Motion for partial summary judgment based on Plaintiff's failure to exhaust (ECF No. 67) is GRANTED IN PART AND DENIED IN PART. Specifically, the motion is granted as to the claim against Defendant Quigley and denied as to the claims against Defendants Torrey and VanWyck. Plaintiff's claim against Defendant Quigley is dismissed without prejudice.

Dated: March 29, 2021

/s/ Janet T. Neff  
JANET T. NEFF  
United States District Judge